

House Resolution 1432

By: Representatives Peake of the 137th and Lindsey of the 54th

A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the reduction or elimination of local ad valorem taxation for educational purposes with a sales and use tax at the rate of 1 percent; to provide for procedures, conditions, and limitations; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article VII of the Constitution is amended by adding a new section to read as follows:

"SECTION V.

SALES TAXATION FOR LOCAL PURPOSES

Paragraph I. *Local ad valorem reduction option.* (a) Any local taxing jurisdiction in this state consisting of a county school district located in a county in which no independent school district is located shall be authorized to levy, impose, and collect a local sales and use tax as provided in this Paragraph throughout the entirety of such local taxing jurisdiction.

(b) In the event one or more independent school districts are located wholly or partially within a county, the board of education of that county school district and the board of education of each such independent school district shall be authorized, upon the adoption of a concurrent resolution, to levy, impose, and collect a local sales and use tax as provided in this Paragraph throughout the entirety of such local taxing jurisdiction, and the joint areas of such school districts shall constitute the local taxing jurisdiction.

(c) The purpose of such tax shall be to reduce or eliminate ad valorem taxation for educational purposes. The rate of such tax shall be 1 percent.

(d) Such tax shall be imposed for an initial period not to exceed four years. Such tax shall be in addition to any state-wide and local sales and use tax.

(e) Upon the adoption of a resolution by the board of education of a county school district or a taxing jurisdiction or concurrent resolution in the case of a county school district and one or more independent school districts which specifies the maximum duration of the proposed tax, the maximum net millage rate for the duration of such tax, and the date of the required referendum, a special election shall be conducted for posing the question of imposing the tax. Such resolution shall in no event be adopted at any meeting of the board of education held pursuant to general law for the purpose of raising the mill rate or adopting a mill rate which exceeds any statutory roll-back rate. Such special election shall be called and conducted by the appropriate election superintendent only on the date of the state-wide general primary or the state-wide general election and in the manner authorized by general law for special elections. The imposition, levy, and collection of the tax shall be conditioned upon approval by a majority vote of the qualified electors residing within the limits of the local taxing jurisdiction voting in a referendum thereon. The ballot question shall specify the maximum duration of the proposed tax and the maximum net millage rate for the duration of such tax.

(f) The authority provided under this Constitution to levy and collect ad valorem taxes for educational purposes for the purpose of retiring existing indebtedness or repaying future indebtedness shall continue.

(g) Except as otherwise provided in this Paragraph, a local sales and use tax imposed pursuant to this Paragraph shall correspond to the state-wide sales and use tax imposed by the revenue laws of this state, as now or hereafter amended. If approved in the referendum, such local tax shall be imposed on the first day of January of the next succeeding year after the date of the election at which the tax was approved by the voters.

(h) The sales and use tax imposed under this Paragraph shall not be subject to and shall not count with respect to any general law limitation regarding the maximum amount of local sales and use taxes which may be levied in any jurisdiction in this state.

(i) The sales and use tax imposed under this Paragraph shall not apply to the sale or use of eligible food and beverages to the extent that such items are subject to state or local sales and use tax pursuant to general law.

(j)(1) The sales and use tax imposed under this Paragraph shall not apply to:

(A) The production or generation of energy; or

(B) The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale.

(2) The net maximum millage rate shall not apply to real property upon which any facilities are located which produce or generate energy or which use energy in the manufacturing or processing of tangible goods primarily for resale with respect to which the sales and use tax exemption under this subparagraph applies.

(k) The proceeds of the sales and use tax imposed under this Paragraph by any county school district or independent school district shall count as a part of such district's total millage for purposes of any equalization grant formula provided by general law.

(l) The sales and use tax imposed under this Paragraph may be levied and collected without the necessity for further action by the General Assembly, but the General Assembly shall be authorized by general law to further define and implement such tax.

(m)(1) The proceeds derived from the sales and use tax imposed pursuant to this Paragraph shall be used solely for the purpose of reducing the millage rate for educational purposes against tangible property within the entirety of the local taxing jurisdiction in an amount equivalent to the amount of proceeds of the tax under this Paragraph collected for a 12 month period.

(2) In the case of a county school district and one or more independent school districts, the proceeds derived from the sales and use tax imposed pursuant to this Paragraph shall be used solely for the purpose of reducing the millage rate for educational purposes against tangible property within each of such school districts. The net proceeds of the tax shall be distributed between the county school district and the independent school districts, or portion thereof, located in such county according to the ratio the student enrollment in each school district, or portion thereof, bears to the total student enrollment of all school districts in the county. For purposes of this distribution, student enrollment shall be based on the latest full-time equivalent count prior to the referendum on imposing the tax.

(3) Such reduction shall be set in the form of a dollar-for-dollar credit and shall be reflected on the ad valorem tax bill of each taxpayer. Any excess proceeds remaining after eliminating 100 percent of property taxes for educational purposes of the local taxing jurisdiction shall be used to reduce or eliminate general obligation debt of the local taxing jurisdiction.

(4) As a condition precedent to the levy of the tax, if approved in the required referendum, the board or boards of education receiving the proceeds shall establish a maximum net millage rate for general maintenance and operations against tangible property within such tax jurisdiction or jurisdictions. In the event a state of emergency has been declared by the President or the Governor or is otherwise necessitated due to a court order, the maximum net millage rate may be exceeded in the local taxing jurisdiction for emergency purposes or court order only upon approval of a resolution by a three-fifths' vote of the board of education and, in the case of a county school district and one or more independent school districts, upon approval of a concurrent resolution by a three-fifths' vote of each board of education. The maximum net millage rate shall

not apply to real property located in a tax allocation district, a community improvement district, or a city business improvement district.

(n) The sales and use tax imposed under this Paragraph may be reimposed upon approval by a majority vote of the qualified electors voting in a referendum thereon in the same manner generally as the tax was initially imposed except that any such reimposition may be for a period not to exceed eight years.

(o) The Department of Audits and Accounts shall conduct an annual audit of the collection and expenditure of the proceeds of such tax in each school district which imposes such tax. A copy of such audit shall be provided to the General Assembly and made available for public inspection at the office of the board of education of the school district to any person who so requests.

(p) The use of proceeds of the sales and use tax imposed under this Paragraph shall not be subject to redirection by any court order to any other purpose.

(q) Any such board or boards of education shall be authorized to cease the levy of the sales and use tax imposed under this Paragraph upon approval by a majority vote of the qualified electors residing within the limits of such local taxing jurisdiction voting in a referendum thereon. The sales and use tax imposed under this Paragraph and the maximum net millage rate shall continue until December 31 of the year in which such referendum is conducted and approved."

SECTION 2.

Article VIII, Section VI, Paragraph I of the Constitution is amended by revising subparagraph (a) as follows:

"(a) ~~The~~ Except in cases where no ad valorem millage rate is required because of a tax as provided in Article VII, Section V, Paragraph I of this Constitution, the board of education of each school system shall annually certify to its fiscal authority or authorities a school tax not greater than 20 mills per dollar for the support and maintenance of education. Said fiscal authority or authorities shall annually levy said tax upon the assessed value of all taxable property within the territory served by said school system, provided that the levy made by an area board of education, which levy shall not be greater than 20 mills per dollar, shall be in such amount and within such limits as may be prescribed by local law applicable thereto."

SECTION 3.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

133 "() YES Shall the Constitution of Georgia be amended so as to authorize the
134 reduction or elimination of local ad valorem taxation for educational
135 () NO purposes with a local sales and use tax upon approval in a local
136 referendum?"

137 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

138 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
139 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
140 become a part of the Constitution of this state.